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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,627	11/09/2001	Akira Ishibashi	5636-0024-01	5938

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EXAMINER

COLE, ELIZABETH M

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 12/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/986,627	Applicant(s) ISHIBASHI ET AL.	
	Examiner Elizabeth M Cole	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15, 17-19, 21, 23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 15, 17-19, 21, 23 and 24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ | 6) <input type="checkbox"/> Other: ____ |

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 15, 17-19, 21, 23-24 are rejected under 35 U.S.C. 103(a) as obvious over DE 3444813 to Andrejewsk et al in view of JP 63-13050.

Andrejewsk et al discloses a slide fastener which comprises a polyamide resin which contains approximately 25-40 wt. % glass fibers and a friction reducing material such as molybdenum sulphide or PTFE in an amount of 10-25 wt%. Although Andrejewsk et al does not disclose the storage elastic modulus of the material, since the reference employs the same material it would inherently possess the same storage elastic modulus. Andrejewsk et al differs from the claimed invention because Andrejewsk does not teach employing PET or PBT as the resin material. JP 63-13050 discloses a material comprising a friction regulating agent, a thermoplastic resin and reinforcing fibers. The thermoplastic resin may be polybutylene terephthalate, nylon 6 or nylon 66. The friction reducing agent may be PTFE. The friction reducing agent is present in an amount of 10%. The fiber reinforcement is present in an amount of 20 percent. It would have been obvious to one of ordinary skill in the art at the time the

Art Unit: 1771

invention was made to have employed an aromatic polyester such as PET or PBT as the resin material in the slide fastener of Andrejewsk et al because JP 63-13050 teaches that PET or PBT and resins such as nylon 6 or nylon 66, (i.e. polyamide resin), are equivalent materials for use as the resin component of slide materials which comprise a thermoplastic resin, a fiber and a friction reducing agent such as PTFE.

1. Applicant's arguments filed 9/30/03 have been fully considered but they are not persuasive. Applicant argues that the references cited by the Office do not explain the nature of the problem of increased temperature caused by friction present during the operation of slide fasteners and that this is evidence of nonobviousness. However, it is not necessary that the prior art suggest the combination to achieve the same advantage or result discovered by applicant. *In re Linter*, 458 F.2d 1013, 173 USPQ 560 (CCPA 1972). Thus, the Andrejewsk reference teaches the claimed invention except that it does not teach the particularly claimed resins. JP '050 teaches the equivalence of the claimed resins and the resins taught by Andrejewsk in this art area, (i.e. molded resin sliders comprising reinforcing fibers). Therefore, even though neither reference specifically suggests making the combination in order to achieve the same advantage or result discovered by applicant, the references do suggest that the combination be made.

2. Applicant argues that because Andrejewsk does not include lubricants in a preferred embodiment that it teaches away from the claimed invention. However, the omission of an element in some embodiments does not constitute teaching away from

Art Unit: 1771

the inclusion of the element, especially since Andrejewsk clearly teaches that lubricants may be incorporated into the slide fastener.

3. In response to applicant's argument that JP '050 is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both references are from the same field of endeavor, namely, a resin molded article for sliding comprising a resin and fibrous reinforcement.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (703)

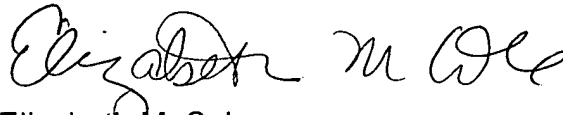
Art Unit: 1771

308-0037. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (703) 308-2414.

Inquiries of a general nature may be directed to the Group Receptionist whose telephone number is (703) 308-0661.

The fax number for all official faxes is (703) 872-9306. The fax number for unofficial faxes is (703) 305-5436.

A handwritten signature in black ink, appearing to read "Elizabeth M. Cole". The signature is fluid and cursive, with the first name "Elizabeth" being more prominent and the last name "Cole" written in a simpler, more legible style.

Elizabeth M. Cole
Primary Examiner
Art Unit 1771

e.m.c